

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TOMMY DARLAND,

Defendant.

No. 04-CR-2010-LRR

ORDER

The matter before the court is Magistrate Judge Jon S. Scoles's Report and Recommendation (docket no. 47). On April 10, 2012, Judge Scoles held a hearing on the First Supplemented and Substituted Petition for Warrant or Summons for Offender Under Supervision (docket no. 41). On April 16, 2012, Judge Scoles issued the Report and Recommendation, which recommends that the court revoke Defendant Tommy Darland's supervised release and that he be sentenced to a five-month term of imprisonment. Judge Scoles further recommends that, following imprisonment, Defendant be placed on supervised release until October 23, 2013. The Report and Recommendation states that, "within fourteen (14) days after being served with a copy of this Report and Recommendation, any party may serve and file written objections with the district court." Report and Recommendation at 7.

The time to object to the Report and Recommendation has expired and neither party has filed any objections. The parties have thus waived their right to de novo review of the Report and Recommendation. *See United States v. Azure*, 539 F.3d 904, 909 (8th Cir. 2008) ("[U]pon an objection to a magistrate judge's proposed findings and recommendations pursuant to [18 U.S.C. §] 3401(i), a district court must undertake de novo review."); *see also United States v. Newton*, 259 F.3d 964, 966 (8th Cir. 2001) ("Appellant's failure to file any objections waived his right to de novo review by the

district court of any portion of the report and recommendation of the magistrate judge as well as his right to appeal from the findings of fact contained therein.’” (quoting *Griffini v. Mitchell*, 31 F.3d 690, 692 (8th Cir. 1994))). The court finds no plain error in Judge Scoles’s decision. Accordingly, the court hereby **ADOPTS** the Report and Recommendation (docket no. 47) in its entirety. For the reasons set forth therein, the court finds by a preponderance of the evidence that Defendant violated the terms and conditions of his supervised release.

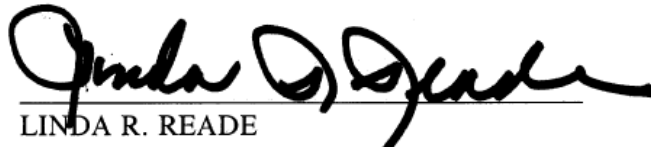
Therefore, it is the judgment of the court that Defendant Tommy Darland’s supervised release is revoked and he is hereby committed to the custody of the United States Bureau of Prisons for a term of five months. Upon release from imprisonment, supervised release shall be reimposed and extended to October 23, 2013. Within 72 hours of release from the custody of the Bureau of Prisons, Defendant shall report, in person, to the probation office in the district to which he is released. During this period of supervised release, Defendant shall not commit another federal, state or local crime; he shall not illegally possess a controlled substance or a firearm, ammunition, destructive device or other dangerous weapon; he shall cooperate in the collection of a DNA sample as directed by his probation officer; and he shall comply with the standard conditions that have been promulgated by the Judicial Conference of the United States. All other terms and special conditions of Defendant’s original sentence are reimposed and remain in full force and effect. In fashioning a sentence in this matter, the court has taken into consideration all of the factors in 18 U.S.C. § 3553(a).

Defendant is advised of his right to appeal. If Defendant desires to appeal, he must file a written notice with the Clerk of Court within fourteen days of the filing of the judgment. If Defendant is unable to afford an attorney, the court will appoint an attorney to represent him.

The Clerk of Court is **DIRECTED** to send a copy of this order to Defendant, the government and the United States Probation Office. The United States Probation Office is **DIRECTED** to prepare a revocation judgment in accordance with the Report and Recommendation and this order.

IT IS SO ORDERED.

DATED this 2nd day of May, 2012.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA